

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEMETRIS ARTIS	:	CIVIL ACTION
	:	
v.	:	
	:	
JO ANNE B. BARNHART,	:	NO. 03-2423
COMMISSIONER OF SOCIAL SECURITY	:	

MEMORANDUM AND ORDER

Cross-motions for summary judgment in this social security disability case. Plaintiff filed an application for benefits alleging that he is disabled because of depression, personality disorder, and a learning disorder. After a hearing on June 5, 2002, the claim was denied on July 23, 2002. The case will be remanded for additional proceedings.

Plaintiff was born in 1982. He has a ninth grade education and worked as a cook for three weeks and as a dishwasher for two months, neither qualifying as substantial gainful work. Record at 11. The ALJ found that although Plaintiff has a severe learning disability, attention deficit hyperactivity disorder, depressive disorder NOS with a GAF of 50 (suggesting serious impairment), "oppositional defiant disorder," and disruptive behavior (including poor impulse control), these impairments do not meet or medically equal one of the impairments in the regulations. Id. at 11-13. According to IQ testing in 2000, Mr. Artis has a verbal IQ of 89, performance IQ of 71, and full

scale IQ of 81. Id. at 12. The ALJ considered both Plaintiff and his mother credible in describing his symptoms and behavior, which included descriptions of difficulties at school and Plaintiff's current lack of activity. Id. at 13.

The ALJ heard medical expert testimony from Defendant's expert, a non-examining psychologist, Dr. Prout. The ALJ concluded that Mr. Artis has the residual functional capacity to perform jobs with the following non-exertional limitations: limited interaction with co-workers, supervisors and the general public and the work must be simple, routine, and repetitive. Id. at 14.

Because Plaintiff had no past relevant work, the ALJ then shifted the burden to the Secretary to show that there are significant jobs in the national economy that Plaintiff can perform with his limitations. The vocational expert testified that claimant could work as a janitor, a packager, and an assembler. Id. at 38. The hypothetical to the ALJ did not include specifically limited interaction with supervisors. Based on the vocational expert's testimony, the ALJ concluded Plaintiff is not disabled.

The matter must be remanded because the ALJ's hypothetical to the vocational expert did not include all of Plaintiff's non-exertional limitations; specifically, the hypothetical did not address limited interaction with supervisors. The law is clear

that the hypothetical must include all found limitations in order to constitute a finding supported by substantial evidence. See Chrupcala v. Heckler, 829 F.2d 1269, 1276 (3d Cir. 1987).

Upon remand, the parties should endeavor to develop a record regarding the scope of Plaintiff's limitations and the possibility of improving his condition through treatment. If, as Plaintiff's counsel indicated at oral argument, one aspect of Plaintiff's illness is that it renders him resistant to treatment, then others should look for ways to help him obtain that treatment. See Wilder v. Chater, 64 F.3d 335, 337 (7th Cir. 1995).

An order follows.

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ORDER

AND NOW, this day of November, 2003, upon consideration of the parties' cross-motions for summary judgment, and following oral argument,

IT IS hereby ORDERED that Defendant's Motion is DENIED and Plaintiff's Motion is GRANTED IN PART as follows: The case is remanded to the Secretary for further development of the record and evaluation of whether Plaintiff is disabled.

BY THE COURT:

John P. Fullam, Sr. J.